

Annals of Spies and Information

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WASHINGTON, Feb. 10 — A few weeks ago, the Department of Energy instructed its employees to tell their superiors immediately about any outside requests for "illegal or unauthorized access to classified or otherwise sensitive information."

The directive was in response to President Reagan's ordering agencies throughout the Government to establish such reporting procedures. The intent, Federal officials say, was to head off spying by other countries.

Some agencies, such as the Energy and the State departments, have complied. Others, such as the Defense and Justice departments, are still working up their instructions.

But even before the process is complete, civil libertarians are concerned. Specifically, the wording of the Energy Department directive and, to a lesser degree, the terminology of Mr. Reagan's initial order have prompted criticism from Representative Don Edwards, chairman of the House Judiciary Subcommittee on Constitutional Rights, and Allan Adler, an attorney with the American Civil Liberties Union in Washington.

They worry that the directives may tip the delicate balance required to protect the nation against genuine espionage threats while maintaining citizens' Constitutional right to speak their minds, associate with anyone they choose and enjoy the benefits of a free press.

Mr. Edwards, a California Democrat, says the Energy Department order is "dangerously overbroad" and should be rewritten. "As it is," he said, "every call from the news media and every inquiry from an ordinary citizen could be covered."

Mr. Adler has a second concern. "I

think the Department of Energy regulation violates the First Amendment right of Government employees to freedom of association," he said.

The Presidential directive, signed last November but not made public for two months, said the new reporting requirements were intended to "enhance overall government efforts to protect against illegal or unauthorized acquisition by hostile intelligence services of information and technology vital to our national interest." It required each department or agency of the Government to establish procedures for reporting employee contacts with "nationals of certain foreign countries."

But the order also said the agency rules should require employees to report contacts "with individuals of any nationality" in which "illegal or unauthorized access is sought to classified or otherwise sensitive information." The phrase "sensitive information" was not defined.

The followup order issued by Energy Secretary John S. Herrington varied from Mr. Reagan's in two ways. It explicitly said that employ-

ees must report contacts in which individuals of any nation, including the United States, sought illegal access to classified or sensitive information. And it said "sensitive information" could include unclassified data if "loss or harm" might result from "inadvertent or deliberate disclosure."

David Devane, a spokesman for the Energy Department, says critics are misreading the intent of the department's order.

"I think it is clear to anyone who reads this directive that our focus is on the information collection activities of the agents of hostile foreign intelligence services," he said. He also said the new reporting requirement would not hinder reporters or well-intentioned citizens.

Frank Mathews, a spokesman for the State Department, says that department's version of the Presidential directive does not hinder "legitimate inquiries" by anyone, including reporters. "Obviously, some judgment is required," he added, "but the reporting requirement was not meant to include legitimate questions."

